



[FR-6289-N-02]

## **Notice of Intent to Establish a Tribal Intergovernmental Advisory Committee; Structure and Request for Nominations**

**AGENCY:** Office of Assistant Secretary for Public and Indian Housing, U.S. Department of Housing and Urban Development (HUD).

**ACTION:** Notice.

**SUMMARY:** This notice seeks nominations for HUD's Tribal Intergovernmental Advisory Committee (TIAC). It provides details on who is eligible to serve on TIAC and how Tribal governments can nominate persons to serve on TIAC on their behalf. Additionally, this notice announces the structure of the TIAC, informed by Tribal feedback.

**DATES:** Nominations for potential representatives of the TIAC are due on or before: **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit nominations for potential representatives of the TIAC. Nominations may be submitted to HUD electronically. All submissions must refer to the above docket number and title.

**Electronic Submission of Nominations.** Interested persons may submit nominations electronically through the Federal eRulemaking Portal at [www.regulations.gov](https://www.regulations.gov). Electronic submission allows the maximum time to prepare and submit nominations, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Nominations submitted electronically through the [www.regulations.gov](https://www.regulations.gov) website can be viewed by interested members of the public. Individuals should follow the instructions provided on that website to submit nominations.

**Note:** To receive consideration, nominations must be submitted electronically through [www.regulations.gov](https://www.regulations.gov) and refer to the above docket number and title. Nominations should not be submitted by mail.

*No Facsimile Comments.* Facsimile (FAX) comments will not be accepted.

**Public Inspection of Nominations.** All properly submitted nominations and communications submitted to HUD will be available for public inspection and copying between 8:00 a.m. and 5:00 p.m. weekdays at the HUD Headquarters building located at 451 7<sup>th</sup> Street, S.W., Washington, DC, 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the submissions must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339. Copies of all submissions are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Heidi J. Frechette, Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7<sup>th</sup> Street S.W., Room 4108, Washington, DC 20410-0500, telephone (202) 401-7914 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Consistent with Executive Order 13175,<sup>1</sup> HUD's Tribal Government-to-Government Consultation Policy recognizes the right of Indian tribes to self-governance and supports Tribal sovereignty and self-determination.<sup>2</sup> It provides that HUD will engage in regular and meaningful consultation and collaboration with Tribal officials in the development of Federal policies that have Tribal implications. Executive Order 13175 also requires Federal agencies to advance

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<sup>1</sup> Executive Order 13175, 65 FR 67249 (November 9, 2000).

<sup>2</sup> Tribal Government-to-Government Consultation Policy, 81 FR 40893 (June 23, 2016).

Tribal self-governance and ensure that the rights of sovereign Tribal governments are fully respected by conducting open and candid consultations.

In 2016, in furtherance of Executive Order 13175, HUD proposed the establishment of a TIAC. On June 23, 2016, HUD published a *Federal Register* Notice seeking comments on the structure of the proposed TIAC.<sup>3</sup> On December 21, 2016, HUD published a second *Federal Register* Notice announcing the establishment of the TIAC and requesting nominations from duly elected or appointed Tribal leaders to serve on the TIAC.<sup>4</sup> HUD received nominations from various Tribes but did not receive an adequate number of nominations to fully constitute the TIAC. Accordingly, HUD did not complete the establishment of the TIAC at that time.

On January 26, 2021, President Biden issued a Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships.<sup>5</sup> The memorandum directed all Federal agencies to take actions to strengthen their Tribal consultation policies and practices and to further the purposes of Executive Order 13175.

To further enhance consultation and collaboration with Tribal governments, HUD is once again proposing to establish the TIAC. Several Federal agencies have established similar Tribal advisory committees. These advisory committees convene periodically during the year to exchange information with agency staff, notify Tribal leaders of activities or policies that could affect Tribes, and provide guidance on consultation. HUD has determined that a similar advisory committee would provide critical support to the Department as it formulates policies having a direct impact on Tribes/Tribally Designated Housing Entities (TDHEs). The formation of the TIAC would also assist the Department in carrying out its responsibilities under the Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships.

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<sup>3</sup> Notice of Proposal to Establish a Tribal Intergovernmental Advisory Committee; Request for Comments on Committee Structure, 81 FR 40899 (June 23, 2016).

<sup>4</sup> Establishment of Tribal Intergovernmental Advisory Committee; Request for Nominations for Tribal Intergovernmental Membership, 81 FR 93700 (December 21, 2016).

<sup>5</sup> The memorandum was published in the *Federal Register* on January 29, 2021 (86 FR 7491).

On November 15, 2021, HUD published a notice in the Federal Register soliciting Tribal feedback on a proposed TIAC. HUD proposed how the TIAC would be structured and how it would function. HUD received written comments from 12 different commenters submitted via regulations.gov. The commenters included Tribes, Tribal leaders, Tribal housing employees, Tribal housing authorities, regional housing authorities, and Tribal individuals, and represented many different perspectives. Overall, commenters were supportive of establishing the TIAC. Commenters submitted feedback with respect to many topics, including:

- Number of Tribal representatives on the committee;
- Eligibility criteria for Tribal representatives;
- Ensuring that the TIAC does not supplant negotiated rulemaking committees in the future or negatively impact other Tribal consultation practices;
- Length of a representative's tenure;
- Experience with housing;
- What source of funding would be used to support TIAC.

HUD reviewed all comments and took them into consideration when establishing the structure of the TIAC. HUD thanks all commenters for their thoughtful feedback.

This notice announces the structure of the TIAC (informed by Tribal feedback) and solicits nominations for Tribal representatives of the committee.

## **II. Nominations for TIAC Representation**

HUD is requesting nominations for Tribal representatives to serve on the TIAC. Nominations are due on or before: **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If you are interested in serving as a representative of the Committee or in nominating another person to serve as a representative of the Committee, you may submit a nomination to HUD in accordance with the **Electronic Submission of Nominations** section of this notice. Your nomination for representation on the Committee must include:

1. The name of the nominee, a description of the interests the nominee would represent, and a description of the nominee's experience and interest in American Indian and Alaska Native housing and community development matters;

2. Evidence that the nominee is a duly elected or appointed Tribal leader and is authorized to represent a federally recognized tribal government or Alaska Native Corporation;

3. A written commitment from the nominee that she or he will actively engage and participate in the Committee meetings; and

4. A written preference for serving either a two- or a three-year term on the TIAC. HUD will appoint the representatives of the TIAC from the pool of nominees submitted in response to this notice. HUD will announce the final selections for TIAC representatives in a subsequent Federal Register notice. Representatives will be selected based on proven experience and interest in American Indian and Alaska Native (AIAN) housing and community development matters and whether the interest of the proposed representative could be represented adequately by other representatives. In addition to the criteria above, at-large representatives will be selected based on their ability to represent specific interests that might not be represented by the selected regional representatives.

Generally, only elected officers of a tribal government acting in their official capacities with authority to act on behalf of the tribal government may serve as TIAC representatives or alternates of the TIAC.

Tribal employees are also eligible to serve if appointed by a duly elected tribal leader of a federally recognized tribe and are authorized to officially act on the Tribal government's behalf.

Elected officials representing Alaska Native Corporations, or designated employees, may also serve on TIAC at HUD's discretion provided they demonstrate that they meet the criteria specified in the statutory exemption to the Federal Advisory Committee Act (FACA) found in the Unfunded Mandates Reform Act (UMRA) at 2 U.S.C. 1534(b).

Because the TIAC will operate under the Tribal government statutory exemption to the Federal Advisory Committee Act (FACA) found in the Unfunded Mandates Reform Act (UMRA) at 2 U.S.C. 1534(b), HUD will not consider nominees solely representing Tribally Designated Housing Entities, state recognized Tribes, or national or regional organizations. However, HUD will consider nominations from associations that represent elected officials of Tribes who have been designated by an elected Tribal leader to participate in TIAC.

### **III. Structure of the TIAC**

#### **A. Purpose and Role of the TIAC.**

The purposes of the TIAC are:

- (1) To further facilitate intergovernmental communication between HUD and Tribal leaders of federally recognized Tribes on all HUD programs;
- (2) To make recommendations to HUD regarding current program regulations that may require revision, as well as suggest rulemaking methods to develop such changes. The TIAC will not, however, negotiate any changes to regulations that are subject to negotiated rulemaking under Section 106 of the Native American Housing Assistance and Self-Determination Act (NAHASDA) and will not serve in place of any future negotiated rulemaking committee established by HUD; and
- (3) To advise in the development of HUD's AIAN housing priorities.

The role of the TIAC is to provide recommendations and input to HUD, and to provide a vehicle for regular, meaningful consultation and collaboration with Tribal officials. It will not replace other means of Tribal consultations, but, rather, will supplement them. HUD will maintain the responsibility to exercise program management, including the drafting of HUD notices, guidance documents, and regulations.

#### **B. Charter and Protocols.**

The TIAC will develop its own ruling charter and protocols. HUD will provide staff support to the TIAC to act as a liaison between TIAC and HUD officials, manage meeting logistics, and provide general support for TIAC activities.

### **C. Meetings and Participation.**

Subject to availability of Federal funding, the TIAC will meet periodically to discuss agency policies and activities with HUD, set shared priorities, and facilitate further consultation with Tribal representatives. Initially, meetings will likely be conducted virtually, but may be in person in the future, and will be conducted consistent with any COVID-19 safety protocols. HUD will pay for these meetings, including the representative's cost to travel to these meetings. The TIAC may also agree to meet virtually outside of formal meetings, via conference calls, videoconferences, or through other forms of communication. Additional in-person meetings may be scheduled at HUD's discretion in the future. Participation at TIAC meetings will be limited to TIAC representatives or their alternates. Alternates must be designated in writing by the representative's Tribal government to officially act on their behalf. TIAC representatives may bring one technical advisor to the meeting at their expense. The technical advisor can advise the representative but cannot speak in the representative's place. Meeting summaries may be available on the HUD website.

### **D. TIAC Representation.**

The TIAC will be comprised of HUD representatives and Tribal representatives from across the country, representing small, medium, and large tribes. The TIAC will be composed of HUD officials (including the Secretary or his or her designee, as well as the Assistant Secretaries for Office of Public and Indian Housing (PIH), Office of Policy, Development, and Research (PD&R), Office of Fair Housing and Equal Opportunity (FHEO), Office of Field Policy Management (FPM), Office of Housing (FHA), Government National Mortgage Association (Ginnie Mae), and Office of Community Planning and Development (CPD) or their designees) and up to fifteen Tribal representatives. Up to two Tribal representatives will represent each of

the six HUD ONAP regions. Up to three remaining Tribal representatives will serve at-large.

**Generally, only elected officers of a tribal government acting in their official capacities or designated employees of tribal governments with authority to act on behalf of the tribal government may serve as TIAC representatives or alternates of the TIAC.** Elected officials representing Alaska Native Corporations, or designated employees, may also serve on TIAC at HUD's discretion provided they demonstrate that they meet the criteria specified in the statutory exemption to the Federal Advisory Committee Act (FACA) found in the Unfunded Mandates Reform Act (UMRA) at 2 U.S.C. 1534(b). The Secretary of HUD will appoint the HUD representatives of the TIAC. TIAC Tribal representatives will serve a term of two years. To ensure consistency between Tribal terms, representatives will have a staggered term of appointment. In order to establish a staggered term of appointment, half of the Tribal representatives appointed in the inaugural year of the TIAC will serve two years and the other half will serve three years. Tribal representatives must designate their preference to serve two or three years; however, HUD will make the final determination on which Tribal representatives will serve two or three years. Once these Tribal representatives complete these initial terms, future Tribal representatives will serve terms that last two years. Should a representative's tenure as a Tribal leader come to an end during their appointment to the TIAC, the representative's Tribe will nominate a replacement, if not the already nominated alternate.

#### **E. Function.**

The establishment of the TIAC is intended to enhance government-to-government relationships, communications, and mutual cooperation between HUD and Tribes. It is not intended to, and will not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other persons.

**Dominique Blom,**

*General Deputy Assistant,*



*Secretary for Public and Indian Housing.*

**[Billing Code: 4210-67]**

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